

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

ERIC LEE ELLIS M.D.)

File No. 800-2015-013671

**Physician's and Surgeon's)
Certificate No. A86317)**

**Respondent)
_____)**

DECISION

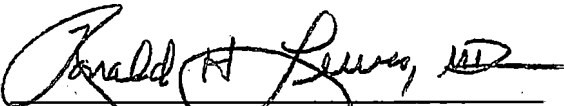
The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 22, 2019.

IT IS SO ORDERED January 23, 2019.

MEDICAL BOARD OF CALIFORNIA

By:



**Ronald H. Lewis, M.D., Chair
Panel A**

1. XAVIER BECERRA
Attorney General of California
2. ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3. MARA FAUST
Deputy Attorney General
4. State Bar No. 111729
RYAN YATES
5. Deputy Attorney General
State Bar No. 279257
6. 1300 I Street, Suite 125
P.O. Box 944255
7. Sacramento, CA 94244-2550
Telephone: (916) 210-6329
8. Facsimile: (916) 327-2247

9. *Attorneys for Complainant*

10. **BEFORE THE**
11. **MEDICAL BOARD OF CALIFORNIA**
12. **DEPARTMENT OF CONSUMER AFFAIRS**
13. **STATE OF CALIFORNIA**

14. In the Matter of the Accusation Against:

Case No. 800-2015-013671

15. **ERIC LEE ELLIS, M.D.**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16. Enloe Hospital
1531 Esplanade
17. Chico, CA 95926

18. Physician's and Surgeon's Certificate No.
A 86317

19. Respondent.
20.

21.
22. IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23. entitled proceedings that the following matters are true:

24. **PARTIES**

25. 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
26. Board of California ("Board"). She brought this action solely in her official capacity and is
27. represented in this matter by Xavier Becerra, Attorney General of the State of California, by Ryan
28. Yates, Deputy Attorney General.

2. Respondent Eric Lee Ellis, M.D. ("Respondent") is represented in this proceeding by attorney Steven M. McKinley, Esq., whose address is: 2150 River Plaza Drive, Suite 250 Sacramento, CA 95833.

JURISDICTION

3. On or about March 12, 2004, the Board issued Physician's and Surgeon's Certificate No. A 86317 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-013671 and will expire on October 31, 2019, unless renewed.

4. Accusation No. 800-2015-013671 was filed before the Board, Department of Consumer Affairs and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 25, 2018. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2015-013671 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-013671. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 **CULPABILITY**

2 8. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a prima facie case with respect to the charges and allegations contained in
4 Accusation/Petition to Revoke Probation No. 800-2015-013671 and that he has thereby subjected
5 his license to disciplinary action.

6 9. Respondent further agrees that if an accusation is ever filed against him before the
7 Medical Board of California, all of the charges contained in Accusation No. 800-2015-013671
8 shall be deemed true, correct, and fully admitted by Respondent for purposes of any such
9 proceeding or any other licensing proceeding involving Respondent in the State of California or
10 elsewhere.

11 10. Respondent agrees that his Physician's and Surgeon's Certificate No. A86317 is
12 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth
13 in the Disciplinary Order below.

14 **RESERVATION**

15 10. The admissions made by Respondent herein are only for the purposes of this
16 proceeding, or any other proceedings in which the Medical Board of California or other
17 professional licensing agency is involved, and shall not be admissible in any other criminal or
18 civil proceeding.

19 **CONTINGENCY**

20 11. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the
21 Executive Director on behalf of the Medical Board. The parties agree that this Stipulated
22 Settlement and Disciplinary Order shall be submitted to the Executive Director for her
23 consideration in the above-entitled matter and, further, that the Executive Director shall have a
24 reasonable period of time in which to consider and act on this Stipulated Settlement and
25 Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands
26 and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the
27 time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

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1 12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
2 and void and not binding upon the parties unless approved and adopted by the Executive Director
3 on behalf of the Board, except for this paragraph, which shall remain in full force and effect.
4 Respondent fully understands and agrees that in deciding whether or not to approve and adopt this
5 Stipulated Settlement and Disciplinary Order, the Executive Director and/or the Board may
6 receive oral and written communications from its staff and/or the Attorney General's Office.
7 Communications pursuant to this paragraph shall not disqualify the Executive Director, the
8 Board, any member thereof, and/or any other person from future participation in this or any other
9 matter affecting or involving Respondent. In the event that the Executive Director on behalf of
10 the Board does not, in her discretion, approve and adopt this Stipulated Settlement and
11 Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of
12 no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary
13 action by either party hereto. Respondent further agrees that should this Stipulated Settlement
14 and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the
15 Board, Respondent will assert no claim that the Executive Director, the Board, or any member
16 thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated
17 Settlement and Disciplinary Order or of any matter or matters related hereto.

18 **ADDITIONAL PROVISIONS**

19 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
20 be an integrated writing representing the complete, final and exclusive embodiment of the
21 agreements of the parties in the above-entitled matter.

22 14. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
23 including copies of the signatures of the parties, may be used in lieu of original documents and
24 signatures and, further, that such copies shall have the same force and effect as originals.

25 15. In consideration of the foregoing admissions and stipulations, the parties agree the
26 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
27 the following Disciplinary Order:

28 ///

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 86317 issued to Respondent Eric Lee Ellis; M.D., shall be Publicly Reprimanded by the Medical Board of California under Business and Professions Code section 2227, subdivision (a)(4), in resolution of Accusation No. 800-2015-013671, attached as Exhibit A. This Public Reprimand, which is issued in connection with Accusation No. 800-2015-013671, is as follows:

On or about March 11, 2012, you committed gross negligence in your care and treatment of Patient A, in that you failed to recognize that Patient A was having stroke and failed to treat Patient A appropriately, as more fully described in Accusation No. 800-2015-013671.

1. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision, Accusation, and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation.

Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any

1 medical condition or psychological condition, or anything else affecting Respondent's practice of
2 medicine. Respondent shall comply with the program's recommendations.

3 Determination as to whether Respondent successfully completed the clinical competence
4 assessment program is solely within the program's jurisdiction.

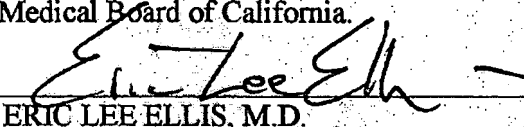
5 If Respondent fails to enroll, participate in, or successfully complete the clinical
6 competence assessment program within the designated time period, Respondent shall receive a
7 notification from the Board or its designee to cease the practice of medicine within three (3)
8 calendar days after being so notified. Respondent shall not resume the practice of medicine until
9 enrollment or participation in the outstanding portions of the clinical competence assessment
10 program have been completed. If Respondent did not successfully complete the clinical
11 competence assessment program, Respondent shall not resume the practice of medicine until a
12 final decision has been rendered on the accusation and/or a petition to revoke probation.

13 Any failure to fully comply with this term and condition of the Disciplinary Order shall
14 constitute unprofessional conduct and will subject Respondent's Physician's and Surgeon's
15 Certificate to further disciplinary action.

16 **ACCEPTANCE**

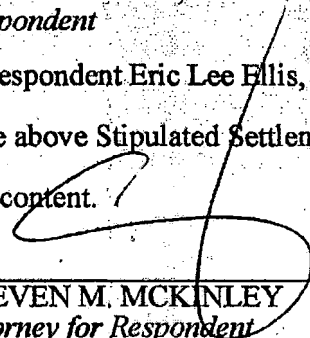
17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
18 discussed it with my attorney, Steven M. McKinley, Esq. I understand the stipulation and the
19 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
20 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
21 bound by the Decision and Order of the Medical Board of California.

22 DATED: 10/31/18


23 ERIC LEE ELLIS, M.D.
Respondent

24 I have read and fully discussed with Respondent Eric Lee Ellis, M.D. the terms and
25 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order
26 for Public Reprimand. I approve its form and content.

27 DATED: 11/6/18


28 STEVEN M. MCKINLEY
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated:

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General



RYAN YATES
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-013671

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 MARA FAUST
Deputy Attorney General
4 California Department of Justice
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Apr 25 20 18
BY [Signature] ANALYST

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2015-013671

13 **ERIC LEE ELLIS, M.D.**
14 Enloe Hospital
15 1531 Esplanade
Chico, CA 95926

A C C U S A T I O N

16 Physician's and Surgeon's Certificate No. A 86317

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about March 12, 2004, the Medical Board issued Physician's and Surgeon's
24 Certificate No. A 86317 to Eric Lee Ellis, M.D. (Respondent). The Physician's and Surgeon's
25 Certificate was in full force and effect at all times relevant to the charges brought herein and will
26 expire on October 31, 2019, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

1 “(f) Any action or conduct which would have warranted the denial of a certificate.

2 “(g) The practice of medicine from this state into another state or country without meeting
3 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
4 apply to this subdivision. This subdivision shall become operative upon the implementation of the
5 proposed registration program described in Section 2052.5.

6 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
7 participate in an interview by the board. This subdivision shall only apply to a certificate holder
8 who is the subject of an investigation by the board.”

9 6. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
10 adequate and accurate records relating to the provision of services to their patients constitutes
11 unprofessional conduct.”

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Gross Negligence)**

14 7. Respondent Eric Lee Ellis, M.D. is subject to disciplinary action under section 2234,
15 subdivision (b), of the Code, in that he was grossly negligent in his care and treatment of patient
16 A¹. The circumstances are as follows:

17 8. On or about March 11, 2012, at 7:47 a.m., patient A, a then 46-year-old male
18 presented to the Marian Medical Center with a complaint of headache, slurred speech and that he
19 had “no control over his legs.” Nursing staff also noted, at or prior to 8:05 am, right facial droop
20 and motor weakness on left upper and lower extremity in patient A. Respondent first made
21 contact with the patient at 8:10 am and stated “I understand alcohol is a factor here.” Respondent
22 described the patient in the record as “a 46-year-old gentleman who is an alcoholic with hepatitis
23 C as well as a history of tobacco abuse.” Respondent noted that the patient admitted to drinking
24 the previous day but had not had anything to drink this morning which was verified by lab tests.

25 9. Respondent did a physical examination consisting of General HEENT and
26 neurological systems. The mental status findings for the patient was alert and appropriate.

27
28 ¹ Patient name will be turned over in discovery.

1 Respondent described the cranial nerves as "actually equal" after an initial impression of right
2 facial droop. Respondent described the cranial nerves "en bloc" as intact, but were not
3 individually identified as tested. Respondent did not record a cerebellar exam or a gait exam.
4 Respondent did not investigate whether the patient had experienced a previous event. The
5 patient's current medications were recorded as "unknown," despite both the patient and his wife
6 being present and conscious. Respondent's physical examination was sparse.

7 10. The patient was given 1 mg of folic acid and 100 mg oral thiamine at 8:27 am. A
8 head CT scan was performed at approximately 8:40 am with the impression of "small
9 calcification in the carotid siphons" and "no acute or focal lesions or hemorrhage (no cranial
10 bleeding detected)." However, at 8:30 am an ECG was done which was abnormal most
11 remarkably for ST elevations in leads V1, V2, V3. Respondent made no comparison with any
12 previous ECG's nor documented whether any prior ECG's were available. Respondent thought
13 these ECG abnormalities were likely "early repolarization." Between 9:37 a.m. and 9:55 a.m., the
14 patient was given 650 mg of Tylenol for headache and 400 mg of magnesium oxide orally.

15 11. Patient was discharged at 10:01 am on March 11, 2012 by Respondent. The
16 discharge vital signs included an abnormally high blood pressure of 171/101 with a pulse of 65
17 and a respiratory rate of 18, which Respondent claimed he did not see. In his dictated discussion,
18 Respondent wrote that he was unclear exactly what was causing the patient's slurred speech as
19 well as the weakness in his legs and he hypothesized that it could be secondary to a thiamine or
20 folate deficiency. Respondent wrote that the patient's symptoms are now completely resolved,
21 but the family and patient differ stating that his legs were the same and his speech was worse.
22 Respondent wrote a prescription for thiamine and folate for the patient.

23 12. At Respondent's physician interview with the Medical Board representatives on
24 February 21, 2018, Respondent admitted to telling the patient's wife that it was unlikely the
25 patient was having a stroke because his symptoms were on both sides of the body. Respondent
26 further stated that he thought the symptoms were due to alcohol or substance abuse and that he
27 gave the patient thiamine and folate to treat possible Wernicke-Korsakoff Syndrome, (WKS).
28 Respondent could not identify the symptoms of this syndrome at his interview. Respondent

1 admitted that he did not have much experience with vertebral artery dissections, nor knowledge
2 about how that vascular injury might have caused a non-unilateral presentation, and he was
3 generally unaware of signs and symptoms, except "visual disturbances."

4 13. On March 12, 2012, patient A presented at Arroyo Grande Hospital and was
5 diagnosed with a right vertebral artery dissection (blood clot on the arterial wall) and a basilar
6 artery tip clot. The patient was treated with heparin (a blood thinner) and aspirin.

7 14. Respondent's care and treatment of patient A was grossly negligent in the following
8 respects:

9 a. Respondent failed to perform and/or document a sufficient history and physical
10 examination in a patient at risk of stroke (with a history of smoking and hypertension) and with
11 serious, unexplained new signs and symptoms.

12 b. Respondent failed to seek a neurological consult in a patient with signs and
13 symptoms suggestive of a profound neurological injury with a high risk of a catastrophic
14 outcome.

15 SECOND CAUSE FOR DISCIPLINE

16 (Repeated Negligent Acts)

17 15. Respondent Eric Lee Ellis, M.D. is subject to disciplinary action under section 2234,
18 subdivision (c), of the Code, in that he was repeatedly negligent in his care and treatment of
19 patient A. The circumstances are as follows:

20 16. Complainant re-alleges paragraphs 8 through 13.

21 17. Respondent's care and treatment of patient A was repeatedly negligent in the
22 following respects:

23 a. Respondent's assumption that the patient and his family were lying about his
24 alcohol use on the day of admission and/or respondent's skepticism about the causes of patient
25 A's symptoms on the day in question clouded respondent's judgment which contributed to
26 prematurely discharging patient A from the hospital and constitutes a negligent act.

27 b. Respondent's analysis of the abnormal ECG as essentially benign without
28 attempting to compare the ECG results with an earlier ECG, with the absence of any comment

1 about the availability of a prior ECG, and the failure to consider other potential causes such as
2 pericarditis, ischemia or cerebrovascular injury (such as stroke) constitutes a negligent act.

3 c. Respondent's failure to review the nurse's evaluation and discharge vital signs
4 before discharging the patient constitutes a negligent act.

5 18. Combining the simple departures in paragraphs 17a, 17b, and 17c, above, constitutes
6 repeated negligent acts in violation of section 2234, subdivision (c), of the Code.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Incompetence)**

9 19. Respondent Eric Lee Ellis, M.D. is subject to disciplinary action under section 2234,
10 subdivision (d), of the Code, in that he demonstrated a lack of knowledge, experience, skill or
11 education in his care and treatment of patient A. The circumstances are as follows:

12 20. Complainant re-alleges paragraphs 8 through 13.

13 21. Respondent's care and treatment of patient A showed a lack of knowledge,
14 experience, skill or education in the following respects:

15 a. Respondent's failure to fully consider stroke in his differential diagnosis of
16 patient A because of the patient's bilateral symptoms in his legs. Not only was Respondent
17 unaware of bilateral presentations for stroke in his physician interview, but he denied that
18 headache or pain is also a common component of stroke.

19 b. Respondent's attribution of the patient's symptoms as Wernicke-Korsakoff
20 syndrome (WKS) without any evidence of starvation, ophthalmoplegia or confusion.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Medical Board of California issue a decision:

24 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 86317, issued to
25 Eric Lee Ellis, M.D.;

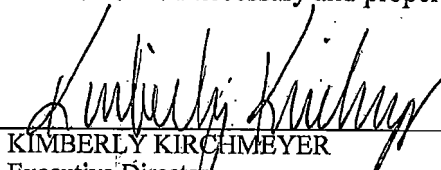
26 2. Revoking, suspending or denying approval of Eric Lee Ellis, M.D.'s authority to
27 supervise physician assistants and advanced practice nurses;

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1 3. Ordering Eric Lee Ellis, M.D., if placed on probation, to pay the Board the costs of
2 probation monitoring; and

3 4. Taking such other and further action as deemed necessary and proper.

4
5 DATED: April 25, 2018


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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